

July 2, 2018

Dr. Nancy Beck  
Deputy Assistant Administrator, OCSPP  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington DC 20460-0001

Re: Designation of “mercury and mercury compounds” as a high priority substance

Dear Ms. Beck:

We write to urge the Environmental Protection Agency (EPA) to include “mercury and mercury compounds” in the next round of high priority chemical designations required under Section 6(b)(2)(B) of TSCA. This designation will enable EPA to further reduce mercury use in products and processes, consistent with the obligations of the United States government (USG) under the Minamata Convention on Mercury, and as otherwise needed to protect human health the environment.

The United States is a Party to the Minamata Convention on Mercury. The Convention entered into force on August 16, 2017. Under the Convention, the United States has obligations related to reducing mercury use in product manufacturing, and in industrial processes. For example, under Article 4 of the Convention, the USG must reduce mercury use in the manufacture of switches and relays, and under Article 5 of the Convention the USG must take measures to phase out mercury use in the production of polyurethane “as fast as possible”. Additional USG obligations include discouraging new mercury product types, discouraging new uses of mercury in manufacturing processes, and reporting obligations related to each of these control measures.

Significantly, as part of the rulemaking governing the TSCA chemical prioritization process, the Agency indicated -

“[i]t should take into consideration relevant international actions, such as multilateral environmental agreements, global and regional partnerships, and bilateral or international commitments. EPA is of the view that it should give particular attention to those chemicals for which the United States has accepted international obligations and to chemicals for which significant global or regional action has been taken or is expected to be taken.”

Moreover, it is hard to conceive of substances better situated for prioritization than mercury and mercury compounds. Mercury can cause irreversible damage to the developing brain. As EPA indicated in the 2014 Workplan Update, the chemicals are already “well characterized”. And under TSCA as revised, a separate and detailed supply, use, and trade reporting system is currently in progress. Proposed rules to implement this system were already issued on October 26, 2017, and final rules are mandated by statute on or before June 22, 2018. These rules will require the electronic submission of comprehensive data by July 1, 2019. Accordingly, approximately six months before EPA’s final prioritization decisions are made (by the end of December 2019), the Agency will have an extraordinarily robust data base for identifying conditions of use and potential exposure scenarios. Based upon these data, the Agency is

required to issue an inventory of mercury supply, trade, and use by April 1, 2020, which must include recommended actions to achieve further reductions in mercury use.

The federal government has enacted a mercury export ban, mandated the construction of a facility to permanently sequester mercury in lieu of placing the mercury in commerce, restricted mercury use in the production of batteries and certain other product uses, and records/publicizes mercury fish consumption advisories. Prioritizing mercury for TSCA action would be consistent with these federal policies to reduce mercury supply, uses and exposures. State support for the high priority substance designation is reflected in the recent April 17, 2018 letter from the Environmental Council of States (ECOS), and the myriad of state laws and regulations restricting mercury use in products.

If you have any questions or would like to discuss this further, please feel free to contact David Lennett (dlennett@nrdc.org).

Thank you for your attention to this matter.

Sincerely,

Alaska Community Action on Toxics

Alliance of Nurses for Healthy Environments

Asbestos Disease Awareness Organization

Breast Cancer Prevention Partners

Center for Environmental Health

Clean and Healthy New York

Clean Production Action

Clean Water Action

Coalition for a Safe and Healthy  
Connecticut

Earthjustice

Ecology Center

Green Newton

Health Care Without Harm

Healthy Babies Bright Futures

Healthy Legacy Coalition

Healthy Mothers Healthy Babies Coalition of  
Massachusetts

League of Conservation Voters

Learning Disabilities Association of America

Learning Disabilities Association of Illinois

Learning Disabilities Association of Maine

Massachusetts Breast Cancer Coalition

Natural Resources Defense Council

Oregon Environmental Council

Safer Chemicals Healthy Families

Science and Environmental Health Network

Texas Campaign for the Environment

Toxic-Free Future

Vermont Public Interest Research Group

WE ACT for Environmental Justice

Women's Voices for the Earth